

ORIGINAL

IN THE UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

FOR THE SOUTHERN DISTRICT OF GEORGIA

2017 MAY -1 P 2:51

DUBLIN DIVISION

CLERK M. Akins
S.D. OF GA.

MITCHELL LUDY,)

Plaintiff,)

v.)

SHAWN EMMONS, Warden; DEANNE)

MORRIS, Health Service Administrator,)

Ga. Regent Health System; CHERIE PRICE,)

Deputy Warden; MITZI HALL, Director of)

Nursing, Ga. Regent Health System, WESLEY)

O'NEAL, Unit Manager; MS. BYRD,)

Correctional Officer; MS. PULLINS, Nurse;)

JASON HURST, Cert. Officer; LARRY)

TIMMONS, Cert. Officer; LAKEISHA)

SMITH, Cert. Officer; JAMIE CLARK,)

Deputy Warden Administration; MS.)

CLAXTON, Nurse; MS. ROGERS, Nurse;)

MR. BRYAN JR., Nurse; and JOHN and)

JANE DOES, Doctors,)

Defendants.)

CV 316-065

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation ("R&R"), to which objections have been filed. (Doc. no. 27.) The Magistrate Judge recommended dismissal of Plaintiff's ADA and supervisory liability claims and, as no claims remained against them, dismissal of Defendants Emmons and Hall. (See doc. no. 23.) Nothing in Plaintiff's objections undermines the Magistrate Judge's recommendation, and only two arguments warrant further comment.

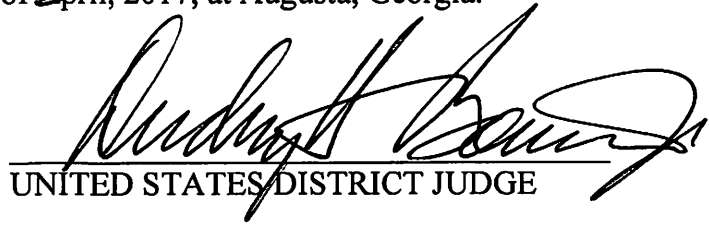
First, Plaintiff claims that he has established a causal between both Defendant Emmons and Hall and the constitutional violation because they knew about the violation and did nothing about it. However, as the Magistrate Judge noted, mere knowledge without “an inference that the supervisor [or employer] directed the subordinates to act unlawfully or knew that the subordinates would act unlawfully and failed to stop them from doing so” is insufficient to support a claim for supervisory liability. Cottone v. Jenne, 326 F.3d 1352, 1360 (11th Cir. 2003). Therefore, Plaintiff’s argument is without merit.

Second, Plaintiff raises the novel claim that he was removed from the Faith Base Program [sic] because he complained about his asthma. However, Plaintiff may not raise new claims in objections to an R&R. See Glover v. Haynes, No. CV 211-114, 2012 WL 1202170, at *2 (S.D. Ga. Apr. 10, 2012) (“To the extent Plaintiff attempts to use his Objections to the Magistrate Judge’s Report and Recommendation to raise new claims, such an attempt is improper.”); Thomas v. Kemp, No. CV 310-019, 2010 WL 4860614, *1 n. 1 (S.D. Ga. Nov. 23, 2010) (noting “Objections to a Report and Recommendation are not the proper vehicle in which to attempt to raise additional claims”). Therefore, Plaintiff’s second argument likewise lacks merit.

Accordingly, the Court **OVERRULES** Plaintiff’s objections, **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, **DISMISSES** Plaintiff’s ADA and supervisory liability claims, and **DISMISSES** Defendants Emmons and Hall from this

case.

SO ORDERED this 1st day of April, 2017, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE